

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ILLINOIS

JOHN TUCKER, et al.,)
Plaintiffs,)
v.)
WALGREEN COMPANY,)
Defendant.) Case No.: 05-CV-440-GPM
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ORDER

Before the Court is the plaintiffs' motion for leave to file a second amended complaint to add Title VII individual and class disparate impact claims, add a new plaintiff/class representative and make a few other minor changes. (**Doc. 71**). Defendant Walgreen Company has filed a response in opposition (**Doc. 73**), and a motion for leave to file supplemental authority (**Doc. 74**). Plaintiffs have also filed a motion for leave to file a reply in excess of five pages (**Doc. 75**), and a nine page reply (**Doc. 76**). Obviously, the proposed amendment and expansion of claims is hotly contested.

The plaintiffs' motion for leave to amend their complaint falls within this court's purview. **Local Rule 72.1(a)**. However, defendant's objections go to the legal viability and/or merits of the proposed amended complaint, which are issues for the trial court-- Chief U.S. District Judge G. Patrick Murphy-- to decide. *Id.* Federal Rule of Civil Procedure 15 dictates that leave to amend shall be freely given. Accordingly, without consideration of the merits of the plaintiffs' proposed amended pleadings, this Court will allow plaintiffs to file their second

amended complaint. Any objections to the amended pleading should be filed in the form of a dispositive motion.

IT IS THEREFORE ORDERED that plaintiffs' motion for leave to file a second amended complaint (**Doc. 71**) is **GRANTED**; plaintiffs shall electronically file their second amended complaint on or before **September 15, 2006**.

IT IS FURTHER ORDERED that defendant Walgreen Company's motion for leave to file supplemental authority (**Doc. 74**) and the plaintiffs' motion for leave to file a reply in excess of five pages (**Doc. 75**) are **DENIED AS MOOT**.

IT IS SO ORDERED.

DATED: September 6, 2006

s/ Clifford J. Proud
CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE